

Appl. No. : 10/759,980
Filed : January 16, 2004

REMARKS

In response to the Office Action mailed July 26, 2004, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. Claims 1 – 5 and Claim 7 have been amended by this paper, Claim 6 has been canceled, and Claims 8 – 28 have been added. No new matter was added by the amendments or by the new claims. Claims 1 – 5, and 7 – 28 are pending and are presented for further examination.

Discussion of Rejections under 35 U.S.C. § 101

Claims 1 – 7 were rejected because they were directed to non-statutory subject matter. Specifically, it appears the Examiner rejected the claims because it was not clear whether the claims were directed to an apparatus or a method, and the Examiner appears to have guessed that they were claiming one or more computer programs. By this Amendment, Claim 6 is canceled, and Claims 1 – 5 and 7 have been amended to clarify that they are for a computer system. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 101 rejection.

Discussion of Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1-5 and Claim 7 are amended herein to address the specific rejection of these claims under 35 U.S.C. § 112, second paragraph for indefiniteness as cited in the Office Action. Claim 6 has been canceled. No new matter was added by these amendments. Applicant respectfully submits that Claims 1-5 and Claim 7 are now in condition for allowance and presents these claims for further examination.

Discussion of Rejections under 35 U.S.C. § 103

Claims 1 – 5 and 7 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,606,479 issued to Cook et al. as obvious variations of the disclosure of Cook and well known principles of database management. The Applicant respectfully traverses these rejections.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See M.P.E.P § 2143.03. The rejection as applied to Claims 1 – 5 and 7 does not meet this requirement, because Cook neither discloses or suggests all

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the claim limitations. The Office Action states that in Cook "certain claimed steps are not explicitly disclosed," but that the claim limitations are "variations on the disclosure of Cook and well known principals of database management." However, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *See* M.P.E.P. § 2143.02. Here, the invention as a whole and as claimed in the amended claims contain limitations that are not disclosed, taught or suggested by Cook.

Cook discloses a device and method of providing instruction to a student on a computer, where the computer is configured to provide instruction to and interact directly with the student. Cook is quite distinct from at least one embodiment of the Applicant's invention, which can be used, for example, by a tutor to conduct discrete trial therapy to "students," e.g., autistic children, providing the data content of the therapy to the tutor, recording and storing the student's performance data, and reporting on the therapy. Specifically regarding amended Claim 1, Cook at least fails to disclose, teach or suggest a system or method that facilitates a tutor for conducting sessions with a student where the tutor interacts with a system that includes, for example, a user interface configured to record and store student performance data and notes from the tutor conducting the therapy session, as disclosed in amended Claim 1. Also, Cook fails to disclose, teach or suggest at other limitations of amended Claim 1, including "a user interface configured to add new accounts for students and tutors," "a user interface configured to modify existing account information for students and tutors" and "a user interface configured to add and modify content in a database, wherein the content includes one or more curriculum areas, one or more lists of targets related to the curriculum areas, and one or more lists of discriminative stimuli related to individual curriculum areas."

For the foregoing reasons, Applicant respectfully submits that Cook does not disclose, teach or suggest all the limitations of Claims 1. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection as amended Claims 1 is thereby in condition for allowance.

Claims 2 – 5 and 7 are dependent directly on the above-discussed amended Claim 1. Accordingly, Applicant respectfully submits that amended Claims 2 – 5 and 7 are also in condition for allowance for at least the same reasons.

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New Claims 8 – 28 also contain limitations that are not disclosed, taught or suggested by Cook. Therefore, Applicant respectfully submits new Claims 8 – 28 are also in condition for allowance and presents the amended claims and new claims for further examination.

CONCLUSION

The applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes pursuant to statutory sections 103 and/or 112, the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Furthermore, any new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes of any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

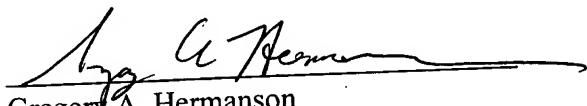
If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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